

**LOCAL RULES OF COURT  
FOR THE CIRCUIT, SUPERIOR I AND SUPERIOR II COURTS  
OF THE 20<sup>TH</sup> JUDICIAL CIRCUIT, BOONE COUNTY, INDIANA**

**ORDER ADOPTING RULES OF PRACTICE AND PROCEDURE  
IN THE CIRCUIT, SUPERIOR I AND SUPERIOR II COURTS  
OF THE 20<sup>TH</sup> JUDICIAL CIRCUIT**

**WHEREAS** the undersigned judges of the 20<sup>th</sup> Judicial Circuit, Boone County, Indiana desire to recodify all existing local rules of the 20<sup>th</sup> Judicial Circuit, Boone County, Indiana in compliance with Indiana Trial Rule 81.

**THEREFORE** be it known that the following rules numbered 1 through 34 are hereby ratified, confirmed and enacted as the local rules of the 20<sup>th</sup> Judicial Circuit, Boone County, Indiana.

**DATED** this 1st day of June, 2006.

---

Steve David, Judge  
Boone Circuit Court

---

Matthew Kincaid, Judge  
Boone Superior Court I

---

Rebecca McClure, Judge  
Boone Superior Court II

## TABLE OF CONTENTS

### Trial Rules:

LR06-TR05-BLR-1	Pleadings	4
LR06-TR11-BLR-2	Pro Se Litigants	5
LR06-TR03.1-BLR-3	Appearances	6
LR06-TR53.5-BLR-4	Continuances/Enlargements of Time	7
LR06-TR07-BLR-5	Motions	8
LR06-TR26-BLR-6	Discovery	9
LR06-TR16-BLR-7	Pre-Trial Conferences	10
LR06-TR38-BLR-8	Jury Trials	11
LR06-JR01-BLR-9	Jury Trial Procedures	12
LR06-CR02.1-BLR-10	Criminal Matters	13
LR06-CR00-BLR-11	Criminal Continuances	14
LR06-TR26-BLR-12	Automatic Criminal Discovery	15
LR06-CR00-BLR-13	Non-Discretionary Filing of Criminal Cases	20
LR06-TR52-BLR-14	Special Findings of Fact	22

### Criminal Bond Schedule:

LR06-CR00-BLR-15	Criminal Bail	23
------------------	---------------	----

### Family Law:

LR06-FL00-BLR-16	Financial Declarations, Support Worksheets, And Children Coping With Divorce Workshop	25
LR06-FL00-BLR-17	Parenting Time Guidelines	26
LR06-FL00-BLR-18	Family Court Rules	27

### Small Claims:

LR06-SC00-BLR-19	Small Claims	29
------------------	--------------	----

### Probate/Guardianship:

LR06-PR00-BLR-20	Probate and Guardianship Rules	30
LR06-PR00-BLR-20A	Boone Local Probate Form A (Instructions to Personal Representative)	32
LR06-PR00-BLR-20B	Boone Local Probate Form B (Instructions to Guardian)	36

**Court Administration:**

<b>LR06-AR00-BLR-21</b>	<b>Court Sessions</b>	<b>38</b>
<b>LR06-AR00-BLR-22</b>	<b>Court Closing</b>	<b>39</b>
<b>LR06-AR15-BLR-23</b>	<b>Court Reporters</b>	<b>40</b>
<b>LR06-TR63-BLR-24</b>	<b>Pro-Tem Judges</b>	<b>41</b>
<b>LR06-TR79-BLR-25</b>	<b>Assignment of Cases From Boone Superior I To Boone Circuit and Boone Superior II where Law Firm of Kincaid, Taylor, Sims, Chadd &amp; Minette Appear</b>	<b>42</b>
<b>LR06-TR79-BLR-26</b>	<b>Special Judge Selection</b>	<b>43</b>
<b>LR06-AR00-BLR-27</b>	<b>Unruly or Disruptive Conduct Prohibited</b>	<b>45</b>
<b>LR06-AR00-BLR-28</b>	<b>No Weapons or Personal Protection Devices Allowed in Courthouse</b>	<b>46</b>
<b>LR06-AR00-BLR-29</b>	<b>Photographs, Broadcasting, Television and Recording Prohibited</b>	<b>47</b>
<b>LR06-AR00-BLR-30</b>	<b>Civility</b>	<b>48</b>
<b>LR06-AR01-BLR-31</b>	<b>Boone County's Local Case Load Plan</b>	<b>52</b>
<b>LR06-AR00-BLR-32</b>	<b>Compliance with Local Rules</b>	<b>54</b>
<b>LR06-AR00-BLR-33</b>	<b>Conflicts in Rules</b>	<b>55</b>
<b>LR06-TR81-BLR-34</b>	<b>Notice</b>	<b>56</b>

## **LR06-TR05-BLR-1**

### **PLEADINGS**

#### **A. Filings**

All causes – civil, criminal, probate, or small claims – may be commenced by personal filing of original pleadings or filing by mail of original pleadings in the office of the Clerk of Boone County. All other pleadings will be accepted and filed as of the date of receipt; provided, however, that any filing made by registered or certified mail, shall be complete upon mailing. All pleadings shall be filed with the Clerk, not directly to the Courts, unless the Indiana Rules of Procedure provide otherwise. Electronic facsimile transmission (“FAX”) are not permitted.

#### **B. Distribution and Service**

No pleadings, order or notices, other than those originated by the Court, will be returned or distributed to attorneys, or to the party(ies), if not represented by counsel, by mail unless the Court is provided with stamped, self-addressed return envelopes. Pursuant to Indiana Rules of Procedure, T.R. 5(B) (1)(d), the Boone County Circuit, Superior I, and Superior II Courts hereby designate the mailboxes in the Boone County Superior I office as a suitable place for service upon local attorneys.

**LR06-TR11-BLR-2**

**PRO SE LITIGANTS**

No pleading or motion shall be accepted for filing from a pro se litigant unless the litigant's current address and phone number appear on the pleading. All notices and responses may be served on said pro se litigant at the current address listed in the Court file.

## **LR06-TR03.1-BLR-3**

### **APPEARANCES**

#### **A. Entry of Appearance**

1. Every pleading filed shall clearly identify the name, address and telephone number of the attorney filing the pleading. Any attorney for a party shall first file his formal written Appearance in accordance with Trial Rule 3.1 and Criminal Rule 2.1.
2. Any pleading not signed by at least one attorney appearing of record as required by T.R. 11 of Indiana Rules of Procedure shall not be accepted for filing, or, if inadvertently accepted for filing, shall, upon discovery of the omission, be struck from the record.
3. Neither typewritten signatures nor facsimile signatures shall be accepted on original documents. Facsimile signatures are permitted on copies.
4. The Rule shall not apply to small claims where attorneys are not employed; however, parties shall be required to comply with the Small Claims Statute and Rules of Procedure and Instructions provided by the Clerk of the Court.
5. All pleadings shall be submitted on 8½ x 11 paper and shall be double-spaced (except pre-printed forms).
6. All documents or orders requiring a Judge's signature must be submitted with an original and one copy for the Court, plus one copy for each attorney or pro-se party, for distribution.

#### **B. Withdrawal of Appearance**

1. Counsel desiring to withdraw Appearance in any cause other than criminal shall file a petition requesting leave to do so. A proposed order complying with section (A) (6) of this Rule shall be submitted along with said petition. All withdrawals of Appearance shall comply fully with the provisions of Rule 1.16 of the Rules of Professional Conduct.
2. No withdrawal of Appearance shall be granted where the withdrawal would deprive the Court of its jurisdiction over the party.
3. A withdrawal of Appearance when accompanied by the Appearance of other counsel shall constitute compliance with the requirements of Paragraph (A) (1) of this rule.

**LR06-TR53.5-BLR-4**

**CONTINUANCES/ENLARGEMENTS OF TIME**

- A. A motion for continuance or a motion for enlargement of time, unless made during the hearing of cause, shall be for cause, in writing, with a copy thereof first served upon opposing counsel. A motion for continuance or enlargement of time, except for an initial motion for thirty (30) additional days to answer or otherwise respond to a civil complaint, must recite that the movant has communicated the intent to file the motion to the opposing side. If the opposing side objects the movant must recite that in the motion. If a movant is unable to determine whether the opposing side objects, that shall be recited and the Court staff may contact the opposing side for the limited purpose of ascertaining any objection.
- B. A motion for continuance must be filed as soon after the cause for continuance is discovered by the moving party.
- C. Continuances of small claims will be granted only at the discretion of the Court and, in no event, less than 3 days prior to trial, unless all parties and the Court concur to the continuance or unless shown by affidavit filed with the Court at least 1 day prior to trial that it is physically impossible to attend trial due to illness or injury. A physician's statement must accompany the affidavit.
- D. All delays and continuances shall be at the cost of the party causing same, except where it is otherwise provided by law.
- E. All motions for continuance must be accompanied by an order, providing appropriate blanks for the Court to reset and comply with Local Rules.

**MOTIONS**

- A. The time of hearing motions shall be fixed by the Court. Dates of hearing shall not be specified in any submitted Order setting said motion for hearing unless prior authorization shall be obtained from the Judge or Court Reporter. Any party may request oral argument upon a motion, but granting of oral argument is discretionary with the Court.
- B. Dispositive motions, such as motions to dismiss, for judgment on the pleadings, and for summary judgment shall be accompanied by a brief or memorandum and shall include proof of service upon opposing counsel of record. Failure to file opposing briefs or memorandum within time limits established by T.R. 56 or by the Court shall subject a dispositive motion to summary ruling by the Court unless, upon motion of a party or the Court, the matter is set for hearing.
- C. Extensions of time for filing briefs or memorandum shall be granted only by order of the Court. All requests for extensions of time for filing briefs or memoranda, whether written or oral, shall be accompanied by a proposed order.
- D. Motions for more definite statement and to strike shall be accompanied by brief or memorandum. The Court, in its discretion, may direct the filing of an answer, brief or memorandum. Such motions shall be decided by the Court without oral argument unless the court otherwise directs.
- E. The Court expects the parties to facilitate discovery in good faith within the time limits established by T.R.26 through T.R. 37, without the necessity of filing a Motion to Compel. A party failing, without good cause, to respond to discovery in a timely manner shall be subject, upon motion, to an order compelling discovery and appropriate sanctions.



**DISCOVERY**

**A. Interrogatories and Requests for Admission: Form and Limitation of Number**

1. Answers or objections to interrogatories or requests for admissions under Rule 33 and Rule 36 of the Indiana Rules of Civil Procedure shall set forth in full the interrogatory or request for admission being answered or objected to immediately preceding the answer or objection. Objections shall be accompanied by citation of legal authority, if any.
2. No party shall serve on any other party more than 30 interrogatories or requests for admission other than requests relating to the authenticity or genuineness of documents in the aggregate, including subparagraphs, without leave of Court. Subparagraphs shall relate directly to the subject matter of the interrogatory or request for admission. Any party desiring to serve additional interrogatories or requests for admissions shall file a written motion setting forth the proposed additional interrogatories or requests for admissions and the reasons establishing good cause for their use.
3. No interrogatories, requests for admissions, or production in small claims matters shall be permitted unless by authorization from the Court upon petition requesting same and the reasons therefore filed not later than 10 days after service of the complaint on the Defendant.

**B. Depositions**

Depositions shall be governed by T.R. 30, and videotape or other mechanically reproduced tapes as allowed by T.R. 74, shall be admissible to the same degree as any other depositions. All videotapes shall be paid for by the moving party and shall not be taxed as costs.

**PRE-TRIAL CONFERENCES**

- A. In all cases, a pre-trial conference will be held upon motion of the parties, or upon direction of the Court.
- B. It shall be the duty of counsel for the Plaintiff to arrange for a conference of attorneys in advance of the pre-trial conference with the Court. In the absence of an agreement to the contrary, the conference shall be held in the Court in which the action is pending.
- C. At the conclusion of the attorneys' conference, counsel for the parties may cause a written memorandum or suggested pre-trial order to be submitted to the Court at the pre-trial conference. The written memorandum or suggested pre-trial order shall be prepared in such a manner to allow the court to adopt same as the pre-trial order controlling the trial of the case.
- D. All matters to be assigned for pre-trial conference shall be assigned a date and time not less than thirty (30) days prior to the date for trial, unless otherwise directed by the Court. Notice of pre-trial assignments shall be given promptly by the Court, either by individual notice or by providing copies of the docket entry or as the Court may direct.
- E. In all proceedings before the Court, the attorney appearing must have the actual authority to act on behalf of his client. Any attorney may appear in place of another attorney of the same firm or office, but in all instances the substitute attorney must be fully informed of issues in the case and must be empowered to act.

## **LR06-TR38-BLR-8**

### **JURY TRIALS**

- A. Regularly scheduled jury trials shall begin on Monday mornings at 9:00 a.m. in the Circuit Court, unless otherwise scheduled by the Court. Regularly scheduled jury trials in Superior Court I shall begin Monday mornings at 9:00 a.m., unless otherwise scheduled by the Court. Regularly scheduled jury trials in Superior II shall begin on Tuesday mornings at 9:00 a.m., unless otherwise scheduled by the Court. Counsel and parties will be expected to be present at Court at least ½ hour prior to trial.
- A. Three (3) working days before the scheduled trial date (Wednesday for the following Monday settings) all choice settings except first and second choices shall be released from trial readiness at 3:00 p.m. As of two (2) calendar days before the scheduled trial date (Friday for the following Monday settings) and if 2<sup>nd</sup> choice setting is still 2<sup>nd</sup> choice, it shall be released from trial readiness at 3:00 p.m.
- B. Motions in Limine shall be filed at least five (5) calendar days prior to trial unless good cause is shown for filing closer to or during trial.
- C. The Courts of Boone County utilize a system of calling prospective jurors by issuance of a form letter at least seven (7) calendar days before a scheduled jury trial, using a two-tier notice for summoning jurors. The jury qualification form and notice will be the first tier and summoning the prospective juror at least one week before service will be the second tier. Prospective jurors are to telephone the Court after 5:00 p.m. the day before the scheduled trial date to ascertain if the trial remains on the Court calendar or has been either continued or resolved. This allows the courts to accept cancellation of trials by agreement of counsel due to settlement, up to 2:00 p.m. the day before the scheduled trial. If the matter is settled after this time, such as the evening before or the morning of the trial, prior to the jury being sworn in for voir dire, then the expense of having jurors appear will be assessed as costs of the case, payable along with filing fees and other costs. Circumstances of a particular trial or the Court's schedule may dictate a modification of this procedure.

**JURY TRIAL PROCEDURES**

**A. Jury Instructions**

Absent other guidance from the Courts, all requests for special instructions submitted in accordance with T.R. 51 of the Indiana Rules of Procedure shall be submitted to the Court not later than one working day prior to the beginning of trial unless the Court in its sound discretion imposes different deadlines. Counsel shall have the right to submit additional instructions during trial on matters which reasonably could not have been anticipated in advance of trial. Instructions shall be exchanged by counsel as ordered by the Court. Instructions shall contain citations to supporting authorities.

**B. Objections/Multiple Counsel**

During trial where a party is represented by more than one attorney, only one of such attorneys may be designated to make objections, examine or cross-examine as to any particular witness. This designation may be changed as each witness appears to testify and at each stage of the trial.

**C. Multiple Parties**

Where there are multiple parties, such parties' participation at trial will be in order named in the pleadings, unless such parties agree otherwise and confirm same with the Court prior to trial.

**D. Custody and Disposition of Models and Exhibits**

1. After being marked for identification, models, diagrams, exhibits and material offered or admitted in evidence in any cause pending or tried before the Court shall be placed in custody of the Court Reporter unless otherwise ordered by the Court.

**LR06-CR02.1-BLR-10**

**CRIMINAL MATTERS**

- A. Immediately upon being retained in a criminal matter, counsel shall file a written Appearance in the cause with the Court and serve a copy thereof upon the Prosecuting Attorney.
- B. Counsel desiring to withdraw Appearance in any criminal matter shall file a Petition requesting leave to do so.

**LR06-CR00-BLR-11**

**CRIMINAL CONTINUANCES**

Motions for Continuance in criminal cases shall be governed by LR06-TR53.5-BLR-4 herein.

**AUTOMATIC CRIMINAL DISCOVERY RULE**

**A. General Provisions**

1. Upon the entry of an appearance by an attorney for a defendant or a defendant's pro se written appearance, the State shall disclose and furnish all relevant items and information under this Rule to the defendant within thirty (30) days from the date of the appearance, subject to Constitutional limitations and such other limitation as the court may specifically provide by separate order, and the defense shall disclose and furnish all relevant items and information under this rule to the State within thirty (30) days after the State's disclosure.
2. No written motion is required, except:
  - a) To compel compliance under this Rule;
  - b) For additional discovery not covered under this Rule;
  - c) For a protective order seeking exemption from the provisions of this Rule; or
  - d) For an extension of time to comply with this Rule.
3. Although each side has a right to full discovery under the terms of this Rule, each side has a corresponding duty to seek out the discovery. Failure to do so may result in the waiver of the right to full discovery under this Rule.
4. All discovery shall be completed on or before the omnibus date unless otherwise extended for good cause shown.
5. The party seeking disclosure or a protective order under this Rule shall include in the party's motion or request a statement showing that the attorney making the motion or request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. In addition, this statement shall recite the date, time and place of this effort to reach agreement, whether the effort was made in person or by telephone and the names of all parties and attorneys participating therein. The court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection.

**B. State Disclosures**

1. The State shall disclose the following materials and information within its possession or control:
  - a) The names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and/or recorded statements. However, the

State may refrain from providing a witness' address under this Rule if the State in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the State does not disclose the witness' address for the reason stated under this Rule, then the State shall make the witness available for deposition or interview by defense counsel upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate;

- b) Any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgment of such statements;
  - c) If applicable, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of persons whom the State intends to call as a witness at hearing or at trial. If such transcripts do not exist, the defendant may apply to the court for an order requiring their preparation;
  - d) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;
  - e) Any books, papers, documents, photographs, or tangible objects that the State intends to use in the hearing or trial or which were obtained from or belong to the accused; and
  - f) Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at any hearing or trial.
2. The State shall disclose to the defense any material or information within its possession or control that tends to negate the guilt of the accused as to the offense(s) charged or would tend to reduce the punishment for such offense(s).
3. The State may perform these disclosure obligations in any manner mutually agreeable to the State and the defense. Compliance may include a notification to the defense that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.



### **C. Defendant Disclosures**

1. Defendant's counsel (or defendant where the defendant is proceeding pro se) shall furnish the State with the following material and information within his or her possession or control:
  - . The names and last known addresses of persons whom the defense intends to call as witnesses along with copies of their relevant written and/or recorded statements. However, the defense may refrain from providing a witness' address under this Rule if the defense in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the defense does not disclose the witness' address for the reason stated under this Rule, then the defense shall make the witness available for deposition or interview by the State upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate.
  - . Any books, papers, documents, photographs, or tangible objects the defense intends to use as evidence at any trial or hearing;
  - . Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at any trial or hearing;
  - . Any defense, procedural or substantive, which the defendant intends to make at any hearing or trial; and
  - . Any record of prior criminal convictions known to the defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.
2. After the formal charge has been filed, upon written motion by the State, the court may require the accused, among other things, to:
  - . Appear in a line-up;
  - . Speak for identification by witnesses to an offense;
  - . Be fingerprinted;
  - . Pose for photographs not involving re-enactment of a scene;
  - . Try on articles of clothing;
  - . Allow the taking of specimens of material from under his/her fingernails;
  - . Allow the taking of samples of his/her blood, hair and other materials of his/her body that involve no unreasonable intrusion;

- . Provide a sample of his/her handwriting; and
- . Submit to a reasonable physical or mental examination.

Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his/her counsel, who shall have the right to be present. Provision may be made for appearances for such purposes in an order admitting the accused to bail or providing for his/her release.

#### **D. Additions, Limitations and Protective Orders**

0. Discretionary Disclosures: Upon written request and a showing of materiality, the court, in its discretion, may require additional disclosure not otherwise covered by this Rule.
0. Denial of Disclosure: The court may deny disclosure required by this rule upon a finding that there is substantial risk to any person of physical harm, intimidation, bribery, economic reprisals or unnecessary annoyance or embarrassment resulting from such disclosure which outweighs any usefulness of the disclosure.
0. Matters not subject to Disclosure:
  - ) Work Product: Disclosure hereunder shall not be required of legal research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staff, or of defense counsel or his/her staff;
  - ) Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest of non-disclosure and where a failure to disclose will not infringe upon the Constitutional rights of the accused. However, disclosure shall not be denied hereunder of the identity of witnesses to be produced at trial or hearing; and
  - ) Any matters protected by law.
0. Protective Orders: Either the State or defense may apply for a protective order for non-disclosure of discovery required hereunder or any additional requested discovery.

#### **L. Duty of Supplemental Responses**

The State and the defense are under a continuing duty to supplement the discovery disclosures required hereunder as required upon the acquisition of additional information or materials otherwise required to be disclosed hereunder.

Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

#### **M. Sanctions Upon Failure to Comply**

Failure of a party to comply with either the disclosure requirements or the time limits required by this Rule may result in the imposition of sanctions against the noncompliant party. These sanctions may include, but are not limited to, the exclusion of evidence at a trial or hearing.

**LR06-CR00-BLR-13**

**NON-DISCRETIONARY FILING OF CRIMINAL CASES**

Effective July 1<sup>st</sup>, 1995, all criminal cases, when filed, shall be assigned by the Clerk to the Circuit, Superior I or Superior II Courts of the Judicial Circuit using the following procedure:

- A. All cases, in which one or more counts are charged under Title IX of the Indiana Code, whether as felonies or misdemeanors, shall be assigned to Superior Court II.
- B. All cases charged as misdemeanors exclusively under Indiana Code 35-48-4, 35-42-2-1, 35-43-5 or 7.1 shall be assigned to Superior Court II. All other cases charged as misdemeanors shall be assigned to Circuit Court. In those circumstances where the nature of the charges would result in a conflict in the assignment of such cases between Superior Court II and Circuit Court, such cases shall be assigned to Superior Court II and Circuit Court on an alternating basis, beginning with Circuit Court.
- C. All cases in which one or more counts are charged under Indiana Code 35-36-1-3 (4) or (5) shall be assigned to Circuit court.
- D. Recognizing that the Circuit Court exercises exclusive jurisdiction in the area of juvenile matters, all felony cases, except as set forth in Letters A and C above shall be rotated between the Circuit, Superior I and Superior II Courts by assigning thirty percent (30%) of such felony cases to Circuit, fifty percent (50%) to Superior I, and twenty percent (20%) to Superior II.
- E. Subject to the exceptions set forth in A and C above, in the event a case charges both felony and misdemeanor offenses, the case shall be considered a felony and assigned pursuant to D above.
- F. The rotation of cases under paragraph D hereinabove shall be accomplished by using one set of one hundred balls. The set for felony cases under paragraph D shall contain 50 balls designated for Superior I, 30 balls designated for Circuit Court, and 20 balls designated for Superior Court II. The balls (those to be selected from and those selected) shall be maintained by the Clerk of the Court and placed in a secure location. Each time a felony case is referred to in paragraph D is filed, the Clerk shall draw a ball and assign the case to the Court so designated. The ball drawn shall be held by the Clerk with the other balls that have been drawn until all balls have been drawn and the process begun again. Whenever a ball is drawn, the Clerk shall note such on a log sheet kept by the Clerk and a Selection Sheet will be placed in each file that identifies who did the particular draw, the number of the ball if applicable, and how it was done.

- G. If, after assignment, a case is dismissed and later refiled, it shall be assigned to the Court of original assignment. The purpose of this rule is to comply with Indiana Criminal Rule 2.2 so as to provide a procedure for non-discretionary assignment of criminal cases.
- H. In cases assigned pursuant to D above, where a charge or charges are filed against more than one Defendant and such charge or charges arise out of the same factual allegations or same criminal episode, such cases shall be assigned to the same Court in which the first such case was assigned pursuant to D above. In such event, the subsequent case or cases shall be assigned to the same Court as the first one was and another ball shall be removed from the draw as necessary to simulate that all such cases were drawn by the specific Court to whom they are being assigned.
- I. Notwithstanding Item D above, whenever the Defendant is charged in a cause wherein the basis for the charge or charges has resulted/ or results in the filing of a CHINS proceeding in Circuit Court, then such cause shall be transferred to the Circuit Court, upon request by the Prosecutor, the Department of Child Services, or the Court, on its own motion.
- J. Notwithstanding any of the foregoing, the Judges of Boone County may agree to transfer any criminal case between or among themselves upon good cause shown by the prosecutor or counsel for the Defendant, or upon their own motion, when in the interests of judicial economy or the interests of justice so require.
- K. In order to comply with Criminal Rule 13 (c), a list of alternative judges shall be maintained in the offices of the Circuit, Superior I and Superior II Courts. On this list shall be contained the names of the regular sitting Judges in the counties contiguous to Boone County. Whenever the appointment of an alternative sitting Judge is ordered by any of the regular sitting judges of the court where the Judge sits, the Judge shall assign the case to one of the Judges on this list on a rotating basis.
- L. This rule shall not, under any circumstances, limit or otherwise alter the option of the regular sitting Judge to request the Indiana Supreme Court appoint a Special Judge in accordance with the Criminal Rule 13(d).

**SPECIAL FINDINGS OF FACT**

In all cases where special finding of facts by the Court is required, counsel of record shall submit to the Court proposed special findings embracing all the facts which they claim to have been proved and the conclusions of law thereon. Such special findings shall be submitted to the Court, pursuant to Trial Rule 52 (c), and shall be submitted within such time as directed by the Court.

**LR06-CR00-BLR-15**

**CRIMINAL BAIL**

- A. In all criminal cases coming within the jurisdiction of the Court and preliminary felony charges filed in the Court, the bail is now fixed as of the first day of each yearly term and each succeeding term hereafter as follows, and these amounts will be the only amounts set for bail for charges to be filed in the Circuit, Superior I and Superior II Courts of Boone County, unless otherwise ordered by the Courts:

<u>OFFENSE/CLASS</u>	<u>SURETY BOND</u>	<u>CASH BOND</u>
MURDER	NONE	NONE
METHAMPHETAMINE (All Meth Related Charges)	\$50,000.00	\$50,000.00
CLASS A FELONY	\$50,000.00	\$50,000.00
CLASS B FELONY	\$25,000.00	\$25,000.00
CLASS C FELONY	\$10,000.00	\$10,000.00

INDIANA RESIDENTS:

CLASS D FELONY	\$5,000.00	\$500.00
CLASS A MISDEMEANOR	\$5,000.00	\$500.00
CLASS B MISDEMEANOR	\$4,000.00	\$400.00
CLASS C MISDEMEANOR	\$2,500.00	\$250.00

OUT OF STATE RESIDENTS:

CLASS D FELONY	\$15,000.00	\$7,500.00
CLASS A MISDEMEANOR	\$5,000.00	\$2,500.00
CLASS B MISDEMEANOR	\$3,000.00	\$1,000.00
CLASS C MISDEMEANOR	\$2,000.00	\$1,000.00

**NO BOND:** Any person arrested on a charge of **Resisting Law Enforcement, Intimidation, Invasion of Privacy, Battery, or Stalking** shall be detained in custody without bond until initial hearing. At initial hearing, bond shall be set pursuant to the bond schedule above absent a request from the Prosecuting Attorney for an alternative bond.

If a person has multiple charges, bond shall be posted on the most serious charge only. If the listed bond amount is inappropriate under the circumstances, the Prosecuting Attorney shall bring such circumstances to the attention of the court by written or oral motion.

This bond schedule shall not be applicable in the case of a person who has been arrested for a crime while on probation, parole, bond or released on own recognizance for another offense. In such cases, the person may be detained for a maximum period of fifteen (15) calendar days, during which period the Prosecuting Attorney shall notify the appropriate parole or probation authority, and the Court shall determine the proper amount of bond, if any.

- B. Upon issuance of a criminal bench warrant, the amount of bail specified shall be endorsed upon the warrant. The Court may increase or diminish the amount specified or permit the posting of cash bond in lieu of accepting any property or surety bond in any justifiable cause.
- C. The Clerk may assess a ten percent (10%) administrative fee per statute on all cash bonds.
- D. **APPLICABLE TO SUPERIOR II ONLY:** The schedule of fines and penalties established by Superior II for infraction matters as adopted in September 1, 1981, and as amended April 10, 1984, and as may be subsequently amended by Superior II are now incorporated herein and made a part of this Order.

**CASH BONDS:** All cash bonds shall be posted with the Boone County Clerk or the Boone County Sheriff. Cash bonds may be used to pay fines, court costs, and other financial obligations of the defendant in any Boone County Cause. In addition, the bond may be used to reimburse the county for the cost of court appointed counsel. Unless the Court orders otherwise, when cash bonds are released, they may be released to the person who posted the bond, not necessarily to the Defendant.

**BOND REDUCTIONS:** Pre-trial Motions for bond reductions shall be presented to the Court in writing and proper notice of the hearing scheduled thereon shall be given to the Prosecuting Attorney. Notwithstanding any pre-trial motion for bond reduction, at the Initial Hearing a Defendant's bond may be reduced at the discretion of the Judge, with or without the presence of the State of Indiana.

**SUPERSEDES:** This Bail Bond Schedule supersedes all previous Bail Bond Schedules ordered by the Circuit and Superior Courts of this County.



**FINANCIAL DECLARATIONS, SUPPORT WORKSHEETS, AND CHILDREN  
COPING WITH DIVORCE WORKSHOP**

(1) Parties shall complete an Indiana Child Support Guideline Worksheet and Financial Declarations on forms adopted by the court and in all contested matters involving child support or disposition of assets. Parties must date and file these forms prior to any hearing or trial. Financial Declarations shall be exchanged by the parties and filed with the court not less than three working days before any preliminary or final hearing. Child Support Worksheets shall be exchanged and filed with the court on the hearing date. Child Support Worksheets must be attached to all proposed orders and decrees addressing child support.

(2) If there are any assets or obligations not disposed of by written agreement between the parties, the litigants must prove the value of the assets and the amount of obligations at the hearing. Financial Declarations shall be considered as received in evidence subject to cross-examination. Direct examination, on matters in the Financial Declaration, should be confined to unusual factors which require explanation, or to corrections.

**LR06-FL00-BLR-17**

**PARENTING TIME GUIDELINES**

The Indiana Parenting Time Guidelines are hereby adopted by Boone County, together with any and all modifications and/or amendments thereto, effective as of the date said Guidelines determined effective by the Indiana Supreme Court.

**LR06-FL00-BLR-18**

**FAMILY COURT RULES  
(With attached Montgomery County Local Rule 28)**

The following Local Rule is implemented for cases referred by the Family Court Case Manager and approved by the Judges of Boone County, pursuant to the Family Court Pilot Project:

- A. Jurisdiction. Each court and each presiding judge shall have concurrent jurisdiction in all matters relating to cases referred through the Family Court Pilot Project and transferred to their court.
- B. Implementation. The undersigned judges have determined that cases pending in Boone County that are related to another, regardless of the court in which the case is pending, shall be bundled and transferred to a specific court, but only in those circumstances where the Family Court Case Manager makes such a recommendation and all three judges concur. Cases related to one another are those cases where a named party or family members or household member(s) have matters pending of the following types: Criminal cases involving or impacting upon the family and/or household, and all of the following types: PO; JM; JS; JP; JT; JD; JC; DR; GU; AD and MH. Emphasis and priority shall be given to JC; JD; DR and Criminal cases involving or impacting upon the family and/or household.
- C. Boone County courts may, in their discretion, set hearings on related cases to be heard concurrently, take evidence on the related cases at these hearings and rule on the admissibility of evidence for each cause separately as needed to adequately preserve the record for appeal. This rule applies only when the cases are pending before the same judge or have been bundled and transferred to one particular court of judge.
- D. Upon approval of the judges to bundle and transfer a case or cases, case management procedures shall be implemented and all parties/counsel will be notified. A CCS entry or other suitable order will be made to reflect the action taken.
- E. Within a reasonable time after a case or cases are bundled and transferred, the court accepting the transfer shall provide to all parties/counsel a list of the cases being bundled and transferred.
- F. Change of Judge. Once notice is sent to all parties that a case has been selected for bundling and transfer, no motion for change of venue from judge may be granted except as to the extent permitted by Indiana Trial Rule 76. A Motion for Change of Venue from Judge in any matters arising in the post bundling and transfer proceeding or any future cases joined or assigned to the

original accepting judge, shall be granted only for cause. If a Special Judge is assigned or appointed, all current and future cases joined or assigned to the original court, may be assigned to the special judge.

- G. Judicial Notice and Access to Records. Any court having jurisdiction over a case assigned or bundled and transferred, can take judicial notice of any relevant orders or CCS entries issued by any Indiana Circuit, Superior, County or Probate Court. Procedurally, if a court takes judicial notice of a court order, the court shall provide a copy of that order; or a CCS entry to the affected parties/counsel of record.
- H. Access to Records. Parties to a Family Court proceeding shall have access to all cases within the Family Court Proceeding (all cases that have been bundled and transferred), with the exception of confidential cases or records to which they are not a party. However, parties may seek such access, by written petition based on relevancy and need. Confidential Records shall maintain their confidential status.
- I. Entry of Appearance forms as approved by the Indiana Supreme Court shall be utilized.
- J. Administrative Matters. The judges of Boone County shall administer the Family Court Project jointly, however, the Judge of the Boone Circuit Court shall be responsible for insuring that any and all reports are timely filed and he/she will provide the day to day coordination with the Family Court Manager and Montgomery County's Pilot Project.

### **Montgomery County Local Rule 28 – Family Court**

- 1.1 The Family Court Rules issued by the Indiana Supreme Court, including definitions of “Family Court” and “Family Court Proceeding”, are adopted by reference.
- 1.2 All of the courts of Montgomery County may serve as a Family Court.
- 1.3 Cases shall be selected for Family Court upon recommendation of the Family Court Administrator and concurrence of the judges before whom each case is pending.
- 1.4 The judges of Montgomery County shall administer the Family Court Project jointly. The judge of the Montgomery Circuit Court shall be responsible for filing required reports and coordination with the Family Court Administrator and the Boone County Family Court Project.

**LR06-SC00-BLR-19**

**SMALL CLAIMS  
(Applicable to Superior II Only)**

Documents Filed With the Court.

1. Written Answers to small claims complaints are not necessary but may be filed by parties or counsel at least ten (10) days prior to trial. In no event will the Court continue a trial setting to permit the filing of an Answer.
2. Counter-claims may be filed not later than ten (10) days prior to trial. Parties are responsible for mailing copies of the counter-claim to the opposing party or counsel at least ten (10) days prior to trial and show proof of mailing by a certificate of service attached to the pleading filed with the Court. Failure to comply with these requirements may result in the Court refusing to hear such counter-claim.

Evidence. Parties are expected to bring with them at the time of trial all exhibits and other physical and documentary evidence they intend to introduce at trial. Failure to do so may result in the Court refusing to consider such evidence.

**PROBATE AND GUARDIANSHIP RULES**  
**(Applicable to Superior I Only)**

**A. Probate**

1. Where required by law, all Wills must be admitted to Probate.
1. Bond Procedures.
  - . If the decedent's Will provides for no bond, the Court may honor the request.
  - . If all heirs request no bond or a minimal bond, the Court may honor the request.
  - . In all instances, upon petition by an interested person, the Court may require bond to protect creditors, heirs, legatees or devisees.
  - . In all other situations, the Court will determine and set the amount of the bond and in no event shall it be less than that required to protect creditors and taxing authorities.
  - . Personal surety must meet the requirements of Indiana Code 29-1-11-5.
  - . No attorney will be accepted as surety in any bond required to be filed with the Court.
3. In all Guardianships and Supervised Estates, an inventory must be filed with the Court within two (2) months after the appointment of the personal representative or guardian.
4. In all Guardianships and Supervised Estates in which real estate is to be sold, a written professional appraisal setting forth the fair market value thereof must be filed with the Court at the time of filing the petition for sale; unless such an appraisal was filed with the Inventory.
5. Three (3) months and fifteen (15) days after the date of the first published notice to creditors, the personal representative, or his/her attorney, shall examine the Claim Docket and shall allow or disallow each claim filed against the estate.
6. Whenever an estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty (30) days after expiration of one (1) year and each succeeding year thereafter. Such accounting shall comply with the provisions of Indiana Code 29-1-16-4 and 29-1-16-6. Such accounting shall state the facts showing why the estate cannot be closed. Such accounting shall propose partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees and

claimants. Failure to comply with this rule may be grounds for removal of the personal representative.

7. Inheritance Tax Schedules must be filed in duplicate and where necessary, copies of the Will of the decedent must be attached.
8. In supervised administration, the countersigned receipt, or photocopy thereof, showing payment of the Indiana Inheritance Tax liability in the estate, executed and sealed by the Indiana Department of the State Revenue should be attached to the Final Report at the time of filing, although not required.
9. In all probate matters, the Personal Representative shall sign instructions in the following form: See Attached Boone Local Probate Form A.

**LR06-PR00-BLR-20A**

**BOONE LOCAL PROBATE FORM A**

STATE OF INDIANA            )  
                                          ) SS:  
COUNTY OF BOONE         )         CAUSE NO. 06D01-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
  
IN RE UN/SUPERVISED         )  
ESTATE OF:                         )  
\_\_\_\_\_  
                                          )

**INSTRUCTIONS TO PERSONAL REPRESENTATIVE**

You have been appointed PERSONAL REPRESENTATIVE of the Estate of a deceased person. It is important that you understand the significance of the appointment and your responsibilities.

Listed below are some of your duties but not necessarily all of them. These duties are not listed in any order of priority. Ask the attorney for the Estate to fully explain to you each of the items below and to tell you about any other duties you have in your particular circumstances. Although the attorney will probably file all papers with the Court, the ultimate responsibility to see that reports and returns are accurately prepared and filed rests with you. As PERSONAL REPRESENTATIVE, you are required to:

1.     Locate all property owned individually or otherwise by the decedent at the date of death; and ascertain the value of such assets as of date of death. Secure all property in safekeeping and maintain adequate insurance coverage; keep records of the assets. If applicable, obtain an appraisal of the property.
2.     Inventory any safety deposit box.
3.     Keep a separate checking account or other type of transaction account for the Estate and keep a record of all receipts and disbursements. Never commingle Estate funds with any other funds or use them for other than Estate purposes. Accounts and securities which are registered to the Estate should be in your name "as Personal Representative for the Estate of (name of Decedent)." Retain all paid bills and canceled checks or other evidence of disbursement or distribution of any funds or assets of the Estate for the Final Report to the Court.
4.     Within two (2) months after you qualify and receive Letters of Personal Representative, you must prepare an Inventory of all property found belonging to the decedent on the date of death and giving values as of the



date of death. If administration is supervised it must be filed. If unsupervised, the inventory must be available to heirs and beneficiaries.

5. You may need to obtain Consent to Transfer forms from the County Assessor for accounts and securities in order to transfer such assets.
6. Collect any proceeds of life insurance on the life of the decedent which is payable to the Estate. Obtain Form 712 from the insurance company, if needed for taxes.
7. Have mail forwarded; complete change of address forms at the Post Office.
8. Inspect all documents and personal papers of the decedent and retain anything pertinent to tax reporting, location and value of assets, debts or obligations of or to the decedent, or any other items of significance to administering the final affairs of decedent.
9. Pay all legal debts and funeral bills; however, pay only priority claims timely filed if there is any question of solvency of the Estate. Do not pay bills which are doubtful but refer them for Court determination. Do not make any distribution to any heir or beneficiary until at least three (3) months after the date of first publication of notice, unless an earlier distribution is allowed by Order of the Court.
10. Prepare and file returns and pay taxes due (or claim any refund) for both State and Federal income taxes for the tax year in which the decedent dies and any prior years, if applicable.
11. Prepare and file the prescribed Schedule for Indiana Inheritance Tax within nine (9) months after date of death. Any tax due must be paid within one (1) year after date of death. Do the same for the Federal Estate Tax, if required, within nine (9) months after date of death.
12. Unless subject to an exception, obtain a federal tax identification number for the Estate. Choose a tax year for the Estate; file Estate income tax returns and pay any tax due for both State and Federal income tax.
13. Make distribution and obtain receipts for distribution.
14. File a Final Account, if supervised administration, or a Closing Statement if unsupervised administration, with receipts for distribution if already made; send a copy thereof to all distributees of the Estate and to all creditors or other claimants whose claims are neither paid nor barred; furnish a full account in writing of the administration to the distributees. File an Affidavit in lieu of vouchers with the Court.

15. File a Supplemental Report with the Court, if ordered to do so, with receipts for the final distribution.
16. Pay court costs and expenses of administration when due.
17. Make payments and distributions to the right persons. You are responsible for incorrect payments or distribution.

\_\_\_\_\_  
Judge, Boone Superior Court I

I acknowledge receipt of a copy of the above instructions and will read and follow instructions carefully.

Dated this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_.

Cause No.: 06D01-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_

Estate of:\_\_\_\_\_

Printed: \_\_\_\_\_

By: \_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Personal Representative

## **B. Guardianships**

1. In all guardianship matters pertaining to declaring an adult incompetent for any reason, at a minimum, an affidavit by the doctor treating the alleged incompetent must be presented at the time the petition is filed, or on the hearing date. No determination will be made without supporting medical testimony.
2. In all instances in guardianships, a bond shall be required to the full extent to secure the value of the personal property assets in the guardianship, pursuant to Indiana Code 29-1-19-9.
3. In all guardianship matters, whether pertaining to the appointment of a guardian of a minor child, personal service of process must be demonstrated by the record, pursuant to the rules. No waiver of service signed by the proposed adult incompetent or the representative of the minor child shall be recognized or accepted by the Court.
4. Current reports filed by the guardian of the person must show the present whereabouts of the ward and his/her personal welfare.
5. All Social Security benefits received on behalf of a ward must be included and accounted for in the guardian's accounting.
6. All guardians shall execute and file instructions in the following form: See Attached Boone Local Probate Form B.

**LR06-PR00-BLR-20B**

**BOONE LOCAL PROBATE FORM B**

STATE OF INDIANA            )  
                                          ) SS:  
COUNTY OF BOONE         )  
                                          )  
IN RE THE GUARDIANSHIP OF         )  
THE ESTATE OF THE PERSON /         )  
PERSON AND ESTATE OF                 )  
\_\_\_\_\_  
                                          )

IN THE BOONE SUPERIOR COURT I  
CAUSE NO. 06D01-\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_

**INSTRUCTIONS TO GUARDIAN**

You have been appointed the Guardian of an individual, "Protected Person," who, because of some incapacity, is unable to care for his/her own estate and/or personal affairs. It is important that you understand the significance of this appointment and your responsibility as Guardian.

In order to qualify and have your Letters issued to you, you may be required to post a bond in the amount set by the Court and to take an oath to faithfully discharge your duties as Guardian. The bond assures the Court that you will properly protect the assets of the Protected Person.

Listed below are some of your duties, but not necessarily all of them. You are directed to ask the Attorney for the Guardianship to fully explain to you each of the items below and to tell you about the other duties you have in your particular circumstances. Though the attorney will file all papers with the Court, the ultimate responsibility to see that all reports, etc., are accurately and timely prepared and filed, rests with you.

As GUARDIAN of the estate of the Protected Person, you are required to:

1. File with the Court, within ninety (90) days after your appointment, a verified Inventory and Appraisement of all of the property belonging to the Protected Person, unless waived by the Court;
2. File with the Court a verified account of all the income and expenditures of the Guardianship every two (2) years after your appointment, unless waived by the Court;
3. Pay bond premiums as they become due;
4. File a final accounting with the Court upon the termination of the Guardianship, whether due to the death of the Protected Person or for any other reason, unless waived by the Court;

5. Keep all of the assets of the Protected Person separate from your own;
6. Open an account, in your name as Guardian, in which all of the cash assets of the Protected Person are deposited. This account must be used for all payments or disbursements on behalf of the Guardianship and the Protected Person;
7. Obtain approval from the Court to use Guardianship assets.

It is your duty to protect and preserve the Protected Person's property, to account for the use of the property faithfully and to perform all the duties required by law of a Guardian. You may NOT make expenditures or investments from the Guardianship funds without Court authorization.

Guardianship funds must never be commingled with personal funds. A separate account for all Guardianship assets must be kept in your name as Guardian. Accurate accounts must be kept and accurate reports made. Unauthorized use of Guardianship funds can result in your being personally liable for the misuse of those sums.

As GUARDIAN of the personal affairs of the Protected Person, you are required to:

1. Make certain that the physical and mental needs of the Protected Person (food, clothing, shelter, medical attention, education, etc.) are properly and adequately provided for;
2. File with the Court a status report as to the physical condition and general welfare of the Protected Person every two (2) years after your appointment.

It is important to understand that you have the same duties and responsibilities concerning the Protected Person whether or not the Protected Person is your relative.

If any questions arise during the Guardianship, you should consult with your attorney immediately.

I authorize my attorney to disclose to the Court any information relating to his or her representation of me as a Guardian even if such information would be otherwise confidential.

I acknowledge I have read and understand the above instructions and agree to follow them carefully and further that I have kept a copy for my continued use and review.

Dated: \_\_\_\_\_, 20\_\_\_\_  
Cause Number: 06D01-\_\_\_\_\_-GU-\_\_\_\_\_  
The Guardianship of: \_\_\_\_\_  
By: \_\_\_\_\_, Guardian

## **LR06-AR00-BLR-21**

### **COURT SESSIONS**

The Court shall convene promptly at 8:00 a.m., recess at 12:00 noon, reconvene at 1:00 p.m. and adjourn at 4:00 p.m. each day not a legal holiday. Court shall be in session Monday through Friday as specified above, unless a different time or day is ordered by the Judge of the Court.

1. In addition to the Court session immediately referred to hereinabove, Superior II and Circuit shall also convene in the first and third Wednesdays of each month beginning at 4:00 p.m. when cases are scheduled for such time and recess upon completion of such matters.

**LR06-AR00-BLR-22**

**COURT CLOSING**

(1) When weather conditions or other emergencies arise, the court shall make a reasonable effort to contact the litigants scheduled for court if the Chronological Case Summary has the addresses and telephone numbers of the attorneys or pro se litigants.

(2) The court shall not be responsible for contacting attorneys and pro se litigants if the Chronological Case Summary does not contain a current address where notices and orders are to be sent and a current telephone number where the attorney or pro se litigant can be reached during normal business hours.

## **LR06-AR15-BLR-23**

### **COURT REPORTERS**

The Local Rule for Court Reporters in the Circuit and Superior Courts of Boone County, is patterned after Model Option 2 of Administrative Rule #15.

- A. Court Reporters shall be paid an annual salary applied for by the Court and approved by the County Council, which salary shall be payment for regular work hours, gap hours, or overtime hours as the case may be, and which salary shall not include payment for the preparation of any transcripts.
- B. The salary shall be based upon a 35-hour work week. Should Court Reporters work gap hours from 35 to 40 hours per week on regular court business, they shall be entitled to overtime at the hourly rate or comp time on an hour-for-hour basis. Should Court Reporters work more than 40 hours in one week on regular court business, the Court Reporters should be paid time-and-a-half or receive comp time at the rate of one-and-a-half times the overtime hours worked.
- C. All transcripts, including indigent transcripts, transcripts done for private attorneys, deposition transcripts or any and all other such transcripts shall be prepared by the Court Reporters on their own time, off the court premises and pursuant to their own private business arrangements. Such transcripts shall be prepared on equipment purchased and owned by the Reporters, on paper obtained and paid for by the Court Reporters, and no materials or machinery belonging to the court shall be used in the preparation of such transcripts.
- D. Occasionally, it will be necessary for a Court Reporter to use the court's recording equipment for the purpose of taking a private deposition.
- E. Court Reporters may collect a per page rate not to exceed \$4.25 and a minimum fee of up to ten times the maximum per page rate;
- F. Index and Table of Contents pages shall be charged at the same per page rate as is charged for the balance of the transcript;
- G. An additional hourly labor charge based upon the Court Reporter's annual court compensation may be collected for time spend binding the transcript and exhibit binders;
- H. A reasonable charge for office supplies required and utilized for binding and electronic transmission of the Transcript may be collected pursuant to Indiana Rules of Appellate Procedure 28 and 29; the costs of which shall be determined pursuant to a Schedule of Transcript Supplies established and published annually by the Judges.



## **LR06-TR63-BLR-24**

### **PRO-TEM JUDGES (TEMPORARY JUDGES)**

As needed, a Judge Pro-Tem will be appointed according to schedules provided by the Boone County Bar Association. Such Judge Pro-Tem shall hear provisional matters in dissolutions, final uncontested dissolutions, modification petitions not exceeding one-half hour, proceedings supplemental, contempt/show cause hearings, and other matters at the discretion of the regular Judge. This rule will apply whether the regular Judge is physically present, and whether the regular Judge is conducting other Court business. Said Judges Pro-Tem is hereby designated as “Temporary Judges” pursuant to Indiana Code 33-13-16-1 through 33-13-16-11.

### **WHEN OTHER JUDGES PRESIDE**

Each regular sitting Judge of Circuit Court, Superior Court I or Superior Court II shall be empowered to act as temporary judges in the absence of the regular sitting judge of any other respective Court.

**LR06-TR79-BLR-25**

**ASSIGNMENT OF CASES FROM BOONE SUPERIOR COURT I TO BOONE  
CIRCUIT COURT AND BOONE SUPERIOR COURT II WHERE LAW FIRM  
OF KINCAID, TAYLOR, SIMS, CHADD & MINETTE APPEAR**

**WHEREAS** Matthew C. Kincaid is Judge of the Boone Superior Court I; and

**WHEREAS** Ora A. Kincaid, III, his father, practices law in Boone County Indiana with the law firm of KINCAID TAYLOR SIMS CHADD & MINETTE, P.C., which firm desires to practice law in Boone County Superior I;

Therefore, in order to avoid any and all conflicts of interest, this Local Rule is enacted as follows:

1. Whenever the aforementioned law firm appears in any case in Boone Superior Court I, the Honorable Matthew C. Kincaid shall recuse forthwith.
2. Upon his recusal, he shall assign the cause on a rotating basis to the regular sitting Judge of the Boone Circuit Court, or the regular sitting Judge of Boone Superior Court II, as Special Judge.
3. The Special Judge shall assume jurisdiction of the assigned case without any action necessary on their parts.
4. Nothing in this rule shall prohibit a Motion for Change of Judge from being filed or granted by either Special Judge once the case has been assigned to either of them.

**LR06-TR79-BLR-26**

**SPECIAL JUDGE SELECTION**

**Coordinated Local Rule of the Counties of: Boone, Hendricks, Morgan,  
Johnson, Shelby, Hancock and Hamilton.**

**(Enacted in Compliance With T.R. 79 (H))**

Pursuant to Order Amending Rules of Trial Procedure entered by the Supreme Court of Indiana bearing a date of June 7, 1995, the undersigned Judges and Magistrates of the seven contiguous counties to Marion County, Indiana, do hereby adopt the following rule to establish procedures for the selection of special judges in civil cases:

- A. This rule shall be subject to any previous standing orders for the appointment of judges which may be in effect or which may become effective subsequent to the entry of this rule, which standing orders may be entered by the Supreme Court of Indiana. Standing orders shall preempt this rule and shall take precedence over it.
- B. This rule shall have a seven-part addendum, one part for each of the contiguous counties to Marion County, which addenda are attached hereto and incorporated herein by reference.
- C. Pursuant to T.R. 79, parties to a civil action may agree (with concurrence with judge selected) to any particular special judge.
- D. In the absence of an agreement as to a particular special judge, the parties, alternatively, may agree to have the regular sitting judge appoint a special judge from a list of local judges, magistrates or senior judges.
- E. In the absence of an agreement as to a particular special judge or an agreement to have the regular sitting judge appoint a special judge, the regular sitting judge shall select a special judge in a manner consistent with TR 79.
- F. Should none of the above methods produce a special judge, the regular sitting judge shall select (on a rotating basis) one of the judges or magistrates from a contiguous county to the county where the civil action is situated, which counties are contiguous to Marion County, but excluding Marion County, all pursuant as to the specifics of each county to the addenda attached hereto and incorporated herein by reference.
- G. If a special judge is not selected or cannot/does not assume jurisdiction due to reasons permitted under TR 79(H), the regular sitting judge shall certify to the Indiana Supreme Court for naming of a special judge.
- H. The available panel of judges from Boone County shall consist of the following:

1. The Judge of the Boone Circuit Court
2. The Judge of the Boone Superior Court I
3. The Judge of the Boone Superior Court II

I. Also included on the list contemplated in Paragraph F of the rule hereinabove for Boone County, Indiana, are the judges and magistrates or their successors of Hendricks and Hamilton Counties as follows:

1. The Judge of the Hendricks Circuit Court
2. The Judge of the Hendricks Superior Court I
3. The Judge of the Hendricks Superior Court II
4. The Judge of the Hendricks Superior Court III
5. The Judge of the Hendricks Superior Court IV
6. The Judge of the Hamilton Circuit Court
7. The Judge of the Hamilton Superior Court I
8. The Judge of the Hamilton Superior Court II
9. The Judge of the Hamilton Superior Court III
10. The Judge of the Hamilton Superior Court IV
11. The Judge of the Hamilton Superior Court V
12. The Judge of the Hamilton Superior Court VI

**LR06-AR00-BLR-27**

**UNRULY OR DISRUPTIVE CONDUCT PROHIBITED**

The Judges of the Boone County Courts, including any duly appointed Commissioner or Judge Pro Tem, Special Judge or any Judicial Officer and/or any Law Enforcement Official/Courthouse Security Personnel and/or any Court staff have the authority to remove or cause to be removed from the Courts of Boone County, including but not limited to the Courtrooms, offices and Courthouse, any person, whom in their opinion is being unruly, disruptive, disorderly, disrespectful or otherwise using profanity or engaging in conduct with disturbs or hinders the operation of the Courts.

**LR06-AR00-BLR-28**

**NO WEAPONS OR PERSONAL PROTECTION DEVICES ALLOWED IN THE  
COURTHOUSE**

No guns, knives or weapons of any kind shall be allowed in the Boone County Courthouse except those in the possession of law enforcement officers or other persons duly authorized by the Judges to possess the same in the Courthouse.

No personal protection devices, including body armor, mace, pepper spray, protective clothing, gloves or other such related items shall be allowed in the Courtrooms at any time, except by those in law enforcement officers in the course of their duties or by other persons authorized by the Judges to possess the same in the Courthouse.

Courthouse Security Personnel are authorized to conduct searches of anyone in the Courthouse to insure compliance with this Rule.

**PHOTOGRAPHS, BROADCASTING, TELEVISIONING AND RECORDING  
PROHIBITED**

The Boone Circuit and Superior Courts hereby specifically adopt CANON 3-B (13) OF THE INDIANA CODE OF JUDICIAL CONDUCT, ADOPTED BY THE SUPREME COURT OF INDIANA AS FOLLOWS:

“(13) A judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judgment may authorize:

(A) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;

(B) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;

(C) the photographic or electronic recording and production of appropriate court proceedings under the following conditions:

(1) the means of recording will not distract participants or impair the dignity of the proceedings;

(2) the parties have consented, and the consent to being depicted or recorded has been obtained from each

(3) the reproduction will not be exhibited until after the proceedings has been concluded and all direct appeals have been exhausted; and,

(4) the reproduction will be exhibited only for instructional purposes in educational institutions.”

In compliance with this rule, broadcasting, televising, recording and the taking of photographs are prohibited in these areas of each court:

Courtroom

Office of the Judge’s Staff

Judge’s Chambers

Witness waiting area

The entire third floor is included as a prohibited area, as is the Commissioner’s office, the Guardian ad Litem’s office and the Video Hearing Room.

The areas immediately outside all entrances to the Superior II Courtroom and the Superior II Jury Deliberation Room.

On a limited basis, photographs may be taken when authorized by the Judges.

**CIVILITY**

The following standards are designed to encourage us, judges and lawyers alike, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We expect judges and lawyers will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice.

These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

These standards should be reviewed and followed by all judges and lawyers participating in any proceeding in the Boone County court system. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

Lawyers' Duties to Other Counsel

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of clients. We will treat all other counsel, parties, and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.
2. We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties, or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties or witnesses. We will treat adverse witnesses and parties with fair consideration.
3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.
5. We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.
6. We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.
7. When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The



drafter will provide the opportunity for review of the writing to other counsel. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.

8. We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.
9. In civil actions, we will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.
10. We will not use any form of discovery or discovery scheduling as a means of harassment.
11. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.
12. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.
13. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.
14. We will consult other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts.
15. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.
16. We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings, or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the court to use the previously reserved time for other matters.
17. We will agree to reasonable requests for extension of time and for waiver of procedural formalities, provided our clients' legitimate rights will not be materially or adversely affected.
18. We will not cause any default or dismissal to be entered without first notifying opposing counsel when we know his or her identity.
19. We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.
20. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.
21. We will not obstruct questioning during a deposition or object to deposition questions unless necessary under the applicable rules to preserve an objection or privilege for resolution by the court.

22. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.
23. We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.
24. We will respond to document requests reasonably and not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.
25. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.
26. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.
27. We will base our discovery objections on a good faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.
28. When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.
29. We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.
30. Unless specifically permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

#### Lawyers' Duties to the Court

1. We will speak and write civilly and respectfully in all communications with the court.
2. We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible.
3. We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.
4. We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.
5. We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.

6. We will not write letters to the court in connection with a pending action, unless invited or permitted by the court.
7. Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.
8. We will act and speak civilly to court clerks, court reporters, and secretaries, with awareness that they, too, are an integral part of the judicial system.

#### Courts' Duties to Lawyers

1. We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.
2. We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral commendations with lawyers, parties, or witnesses.
3. We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.
4. In scheduling all hearings, meetings and conferences, we will be considerate of time schedules of lawyers, parties, and witnesses.
5. We will make all reasonable efforts to decide promptly all matters presented to us for decision.
6. We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.
7. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.
8. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.
9. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom, or the causes which a lawyer represents.
10. We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.
11. We will not adopt procedures that needlessly increase litigation expense.
12. We will bring to lawyers' attention uncivil conduct which we observe.

**LR06-AR01-BLR-31**

**BOONE COUNTY'S LOCAL CASE LOAD PLAN**

We, the undersigned Judges of Boone County, hereby adopt Local Rule 21 entitled "The Boone County Plan for Allocation of Judicial Resources."

**WHEREAS**, the Supreme Court of the State of Indiana issued its Order for Development of Local Case Load Plans on July 16, 1999; and

**WHEREAS**, said Order required the Judges of Boone County to adopt a Local Rule for the Allocation of Judicial Resources; and

**WHEREAS**, the Courts of Boone County, pursuant to Legislative direction and the evolution of time, have acquired certain subject matter expertise that the Judges of Boone County believe should not be altered, but instead should be preserved and enhanced upon, i.e., Circuit Court has exclusive jurisdiction over all juvenile matters, including, but not limited to, Status Offenses, Delinquent Offenses, CHINS proceedings and Paternity matters; Superior I has exclusive jurisdiction over all Estates, Guardianships, Probate matters and Adoptions; and Superior II has exclusive jurisdiction over all Small Claims and certain Alcohol and Drug Offenses;

**WHEREAS**, the Judges of Boone County have met and discussed the Supreme Court's Order and have established the following plan for Allocation of Judicial Resources within Boone County which maintains the integrity of the courts in Boone County:

**IT IS THEREFORE ORDERED** by the Judges of Boone County that for calendar year 1999 and beyond, within 60 days of the Supreme Court's issuance of the previous year's Weighted Caseload Report, as reported by the Division of State Court Administration, a calculation shall be made as to Boone County's average caseload, i.e., (Sum of all Court weighted caseloads within Boone County / number of courts in county = county average.) To the extent that each Court is within a range of 0.40 percentage points (or that percentage determined by the Supreme Court) above or below the county average, no action will be taken by the Courts until the following year when the calculation is again made.

To the extent that any Court exceeds a range of 0.40 percentage points (or that percentage determined by the Supreme Court) above or below the county average, then the Judges of Boone County agree to alter or modify the distribution of cases in the County to bring each Court within the range of 0.40 percentage points (or that percentage determined by the Supreme Court) by amending Local Rule 11, Non-Discretionary filing of Criminal Cases.

The Judges of Boone County have determined that this method can be implemented with very little administrative effort and that it will have a minimal effect

on the Prosecuting Attorney's office and a negligible effect on the Local Bar Association. The statistics for the previous year's criminal filings are readily available and the necessary adjustments can be made very quickly and modifications made to Local Rule 11 can be easily distributed to the Clerk's Office and the Prosecutor's Office.

A report will be made annually to the State Court Administration, within the same time period prescribed above, certifying compliance with the Supreme Court's Order in Cause No. 94S00-9907-MS-390. In addition, an amended Local Rule 11 will be implemented by Boone County Judges, when applicable. Moreover, the Judges of Boone County have agreed to review this Rule every two years to determine whether other adjustments should be made in the distribution of cases in Boone County outside the spectrum of Local Rule 11.

**LR06-AR00-BLR-32**

**COMPLIANCE WITH RULES**

All counsel and/or parties having matters before the Boone Circuit, Superior I or Superior II Courts are presumed to have knowledge of the Courts' Rules and are expected to comply accordingly.

**LR06-AR00-BLR-33**

**CONFLICTS IN RULES**

In the event of conflict between these rules and the Rules of the Supreme Court of Indiana or the laws of the State of Indiana, the applicable law or the Rule of the Supreme Court of Indiana shall govern.

**LR06-TR81-BLR-34**

**NOTICE**

Copies of the foregoing Rules shall be certified to the Indiana Supreme Court and the Court of Appeals pursuant to Indiana Rules of Procedure, T.R. 81. Copies of these Rules shall be posted in the Clerk's Office, on the bulletin board in the respective Courts to which these rules apply and a copy of these rules shall at all times be available at counsel tables in open Court of the respective Courts to which the rules apply.